IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2007

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THE HONOURABLE MR. JUSTICE M. JAICHANDREN

W.P.No.7957 of 2003

S. Mariammal .. Petitioner

vs

1. The Regional Transport Officer,
Dindigul.

2. The Deputy Transport Commissioner,
Madurai.

3. The Transport Commissioner,
Chepauk,
Chennai 600 005. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent made in R.No.D2/40275/2002 dated 5.12.2002 and quash the same and further direct the 1st respondent to refund the Motor Vehicles Tax collected for the period from 1.8.2001 to 31.8.2001 in respect of Vehicle number TN-47/B-6699 to the petitioner

For Petitioner ... Mr.K.Hariharan

For Respondents ... Mr.A.Arumugam, AGP.

ORDER

The prayer in the writ petition is to call for the records of the 3rd respondent relating to the proceedings in R.No.D2/40275/2002 dated 5.12.2002, and quash the same and direct the 1st respondent to refund the Motor Vehicles Tax collected for the period, from 1.8.2001 to 31.8.2001, in respect of Vehicle number TN-47/B-6699, to the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. It is submitted by the learned counsel appearing for the petitioner that the petitioner is holding a stage carriage permit and operating the bus on the route from Dindigul to Karur. Since the petitioner had purchased a new chasis and as the body construction of the

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vehicle would take two months, the petitioner had applied for permission to pay two months Motor Vehicles Tax, for the months of July and August, to the first respondent. The first respondent had given permission to the petitioner to pay two months tax, subject to the condition that the petitioner should not apply for stoppage of the existing vehicle from 1.9.2001, and on the condition that if the new vehicle is not ready for replacement, full quarter tax with penalty would be collected from the petitioner. Since the new vehicle was made ready for replacement during the end of the month of July 2001, the petitioner had applied for replacement and stoppage of the existing vehicle from 1.8.2001. The first respondent had allowed replacement and stoppage of the vehicle on 9.8.2001 and the petitioner had paid full quarter tax for the replaced vehicle. Therefore, the petitioner had claimed that she is eligible for the refund of tax for one full month of August i.e. from 1.8.2001 to 31.8.2001 as per Section 13 (1) of the Tamilnadu Motor Vehicle Taxation Act, 1974. As the reasons stated by the petitioner, for the refund of tax were refused by the first respondent, on 30.10.2001. Thereafter, the petitioner had preferred an Appeal before the second respondent and the same was also rejected by the order, dated 8.4.2002. As against the order passed by the second respondent, the petitioner had preferred a revision before the third respondent. The third respondent had rejected the said revision, by his proceedings Pro.R.No.D2/40275/2002, dated 5.12.2002, stating that there is no provision under Tamilnadu Motor Vehicle Taxation Act, 1974, for refund of the proportionate tax which was paid by the petitioner. Hence, the petitioner has preferred the present writ petition.

4. The learned counsel appearing for the petitioner has pointed out that Section 13 (1) of the Tamilnadu Motor Vehicles Taxation Act, 1974, provides for the refund of tax which has been claimed by the petitioner.

Section 13(1) of the Act reads as follows:

> "Section 13(1) Refund of tax: (1) Where the tax for any motor vehicle has been paid for any quarter, half year, year or the life time and the vehicle has not been used on any public road during the whole of that quarter, half year, year or life time or a continuous part thereof not being less than one month, a refund of the tax at such rates as may, from time to time, be notified by the Government, shall be payable on an application made within such period as may be prescribed and subject to such conditions as may be specified in such notification."

5. Further it has been pointed out that the claim made by the petitioner is covered under Section 13(1) of the Tamilnadu Motor Vehicles Taxation Act, 1974, as well as the order passed by this Court in W.P.No.7336 of 1986, dated 18.1.1994.

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6. The learned counsel appearing on behalf of the respondent has not refuted the claims made by the learned counsel for the petitioner.

7. In such circumstances, considering the contentions raised by the learned counsel appearing for the petitioner as well as for the respondent and in view of the order passed by this Court, in Writ Petition No.7336 of 1986, dated 18.1.1994, the writ petition stands allowed. No cost.

cla

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The Regional Transport Officer,
Dindigul.

2. The Deputy Transport Commissioner,
Madurai.

3. The Transport Commissioner,
Chepauk, Chennai 600 005.

+ One cc to Govt Pleader sR 52813

+ One cc to Mr. K. Hariharan, Advocate sR 52721

NG (co)

sg 5/9/07

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23.8.2007

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